

## COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER: 1671.01  
COMPLAINT INVESTIGATOR: John Hill  
DATE OF COMPLAINT: January 2, 2001  
DATE OF REPORT: February 21, 2001  
REQUEST FOR RECONSIDERATION: yes/Revised March 23, 2001  
DATE OF CLOSURE: August 29, 2001

## COMPLAINT ISSUES:

Whether the Greensburg Community Schools and the Bartholomew Special Services Cooperative violated:

- 511 IAC 7-13-2(b) with regard to the school's alleged failure to provide a student with a disability the same instructional day as it provides to students without disabilities in the same building.
- 511 IAC 7-27-9(b) with regard to the school's alleged failure to make available to a student with disabilities the same educational programs and services (specifically, field trips) as it made available to students without disabilities.

The response received from the school on January 23, 2001 did not specifically address some of the issues. An extension was granted in this investigation to allow the investigator to obtain all the relevant information. The original deadline of February 1, 2001 was extended to February 23, 2001.

## FINDINGS OF FACT:

1. The student is an eleven-year-old, sixth-grader who at the time of the complaint, was determined eligible for special education and related services due to a Learning Disability. The CCC convened on January 24, 2001, and, after reviewing new evaluation information, determined the Student was no longer eligible for special education and related services.
2. Except from May 8, 2000 through June 6, 2000, the student's instructional day was the same as the other students without disabilities in the same building during the 1999-2000 and the 2000-2001 school years.
3. The student's case conference committee (CCC) revised the student's May 19, 1999, IEP on May 8, 2000. The IEP Addendum, dated May 8, 2000 indicates that the student would be placed in an alternative learning site beginning May 8, 2000, from 8:00 am to 11:00 am.
4. Section 22 of the Student's May 31, 2000, IEP identifies the extent to which the Student will be included in nonacademic and extracurricular activities with other students with and without disabilities. "Field trips" and "convocations" are two of the activities included in this listing as nonacademic or extracurricular activities. The student's IEP, dated May 31, 2000, states that the Student may be removed from the listed nonacademic and extracurricular activities if the Student's behavior "causes concern for teacher and students." The IEP does not provide further details about the behavior that may cause the Student to lose access to nonacademic and extracurricular activities. The Individual Behavior Plan, effective August 18, 2000 and Behavior Contract, dated

August 18, 2000, incorporated as part of the Student's May 31, 2000, IEP list the consequences for inappropriate behaviors as: (1) in-school suspension; (2) out-of-school suspension; (3) half-day schedule; and (4) removal from the classroom. Neither the behavior plan nor the behavior contract include exclusion from participating in field trips as a consequence.

5. The Student was not allowed to attend the November 7, 2000 field trip to Purdue University because of two detentions and two days of suspension that occurred in October, 2000. The Student was not permitted to attend the December 19, 2000, field trip to Parkside Bowling Lanes due to misbehavior on December 19, 2000, as well as behavior problems prior to that date.

#### **CONCLUSIONS:**

1. Findings of Fact #2 and #3 reflect that the school provided the student the same instructional day as it provided to students without disabilities in the same building, except when determined otherwise by the CCC. Therefore, no violation of 511 IAC 7-13-2(b) is found.
2. Finding of Fact #4 indicates that the Student's IEP permitted the Student to be excluded from nonacademic and extracurricular activities for behavior that caused concern to the teacher or students, although neither the behavior plan nor the behavior contract included this consequence. The IEP lists field trips and convocations as nonacademic and extracurricular activities. 511 IAC 6.1-3-1(d) and (e) define field trips as educationally related activities included as part of instructional time for the student, and 511 IAC 7-27-9(b) identifies field trips and convocations as types of educational programs and services, as opposed to nonacademic and extracurricular activities. The School's IEP form inappropriately includes convocations and field trips in the category of nonacademic and extracurricular activities. Finding of Fact #5 indicates that the Student was precluded from participating in two field trips due to his behavior. Because a field trip is not a nonacademic or an extracurricular activity, the identified exclusion from those types of activities is not applicable to field trips. Therefore, a violation of 511 IAC 7-27-9(b) is found. Further, the lack of detail in section 23 of the IEP describing the behavior that will preclude the Student's participation in nonacademic and extracurricular activities and the lack of consistency between the IEP form, the behavior plan, and the behavior contract resulted in a lack of common understanding among the student, the parent, and the school about what behavior will preclude the Student from participating in nonacademic and extracurricular activities. Exclusion from field trips, convocations, or other instructional time requires specific justification because of the impact on the provision of a free appropriate public education.

**The Department of Education, Division of Special Education requires the following corrective action based on the Findings of Fact and Conclusions listed above.**

#### **CORRECTIVE ACTION:**

The Greensburg Community Schools and the Bartholomew Special Services Cooperative shall:

1. Revise the IEP and Summary Report form to delete convocations and field trips from the listing of nonacademic and extracurricular activities. Until the form is permanently revised to reflect this change, personnel are to be directed to cross out these items when developing or revising a

student's IEP. A copy of the directive sent to appropriate personnel and a list of personnel to whom the directive was sent shall be submitted to the Division no later than April 6, 2001.

2. In-service all appropriate staff regarding the requirements as specified in 511 IAC 7-27-9(b). Submit documentation to the Division that the in-service has been completed no later than April 20, 2001. The documentation must include a list or agenda of all issues discussed, any handouts that were distributed and a list of attendees by name and title.